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February 14, 1997

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BY HAND

Mr. William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: In the Matter of Access Charge Reform, CC Docket No. 96-262

Dear Mr. Caton:

Transmitted herewith on behalf of the State of Alaska are an original and 16 copies of the "Reply Comments of the State of Alaska" in the above-referenced proceeding. Also enclosed is a 3.5 inch diskette in WordPerfect 5.2 for Windows format.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEB 14 1997

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

In the Matter of)

Access Charge Reform)

CC Docket No. 96-262

Price Cap Performance Review
for Local Exchange Carriers)

CC Docket No. 94-1

Transport Rate Structure
and Pricing)

CC Docket No. 91-213

Usage of the Public Switched
Network by Information Service
and Internet Access Providers)

CC Docket No. 96-263

**REPLY COMMENTS OF
THE STATE OF ALASKA**

The State of Alaska wishes to respond briefly to comments filed in this docket concerning the impact of any changes in access charge rules on geographic rate averaging and rate integration requirements.

In **Sections III.B. and V.B.** of its Notice of Proposed Rulemaking, the Commission raised questions concerning whether Section 254(g) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(g), would limit the ability of interexchange carriers to charge different rates to customers living in different states if the Commission were to permit (or require) local exchange

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carriers ("LECs") to charge flat-rated carrier common line ("CCL") and other access charges which might vary among states or within a particular state.¹

The State offers no opinion as to whether the Commission should permit or require LECs to charge CCL or other access charges that vary within a state or between states. However, access charges now are not uniform within a state or between states. Different LECs operating in a given state assess different access charges; multistate LECs generally charge different access charges in each of the states they serve. Nonetheless, geographic rate averaging and rate integration are required.

Congress passed Section 254(g) to "ensure that subscribers in rural and high cost areas throughout the Nation are able to continue to receive both intrastate and interstate interexchange services at rates no higher than those paid by urban subscribers."² It is plainly inconsistent with both the language of Section 254(g)³ and Congressional intent to permit interexchange carriers to charge subscribers residing in rural and high cost areas higher rates, which would be the

¹ *Access Charge Reform, Notice of Proposed Rulemaking*, CC Docket No. 96-262, FCC 96-488, ¶¶ 63 (CCL), 186 (other access elements) (Dec. 24, 1996).

² H. R. Rep. 104-458, 104th Cong. 2d Sess. at 132 (1996)..

³ "Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State." 47 U.S.C. § 254(g).

case if they were permitted to pass geographically deaveraged access charges through to each individual subscriber.

Geographic rate averaging and rate integration for interexchange service offerings to end-users are not inconsistent with geographic variations in access charges. As WorldCom states, access services are fundamentally different from end-user services because access is not a final product itself.⁴ Indeed, as the Commission stated in adopting its geographic rate averaging rules, "We believe that Congress was fully aware of geographic differences in access charges when it adopted Section 254(g), and intended us to require geographic rate averaging even under these conditions."⁵ Section 254(g) is written in terms of geographic averaging (and integration) of rates charged to *subscribers*, not rates charged to other telecommunications carriers.⁶ Thus, continuing or even increased variation in access charges is not a legally sufficient basis to permit interexchange carriers to deviate from the statutorily mandated geographic rate averaging and rate

⁴ Comments of WorldCom, Inc. at 9-10. WorldCom's subsequent suggestion (*id.* at 34) that the Commission must forbear from enforcing geographic rate averaging and allow interexchange carriers to recover geographically deaveraged CCL charges by assessing geographically deaveraged flat rate charges on end-users ignores this distinction.

⁵ *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, Report and Order*, 11 FCC Rcd 9564, 9583 ¶ 41 (1996).

⁶ See *Alascom, Inc., Cost Allocation Plan for the Separation of Bush and Non-Bush Costs*, AAD 94-119, DA 97-320 ¶ 43 (Com. Car. Bur., Feb. 10, 1997) (access-like costs need not be geographically averaged; they are business costs incurred by interexchange carriers which, in addition to other costs, are to be recovered from subscribers through averaged rates).

integration requirements. In this regard, access costs are no different than other business costs interexchange carriers incur.⁷

Some interexchange carriers, however, have argued that geographic rate averaging requirements are inconsistent with access charge reform and that geographic rate averaging requirements must give way.⁸ Such an argument ignores not only the distinction between end-user charges and access charges and the Commission precedent discussed above, but also the obvious point that geographic rate averaging and rate integration were explicitly mandated by Congress,⁹ while access charge reform was not.

Moreover, arguments from interexchange carriers that geographic rate averaging and rate integration are inconsistent with access charge reform are contrary to arguments that some interexchange carriers (and others) made to the Commission in the proceeding in which the rules implementing Section 254(g) were promulgated. In that proceeding, some parties (including AT&T) sought to delay implementation of geographic rate averaging and rate integration rules until after the Commission took steps to align access charges more closely with LEC costs.¹⁰ Those who claimed that implementation of the statutory requirements for

⁷ *Id.*

⁸ *See, e.g.,* WorldCom Comments at 34-37.

⁹ 47 U.S.C. § 254(g).

¹⁰ *See Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, Report and Order, supra*, 11 FCC Rcd at 9583 ¶ 41 ("We also
(continued...)

geographic rate averaging and rate integration required access charge reform cannot now argue that the reform they sought is inconsistent with enforcement of those requirements.

AT&T and WorldCom raise the concern that nation-wide interexchange carriers will be forced to abandon service from or to high cost areas if they are required to charge geographically averaged interexchange services rates to end-users while LECs are permitted to charge geographically deaveraged access charges.¹¹ AT&T made similar arguments in its efforts to persuade the Commission to forbear from enforcing geographic rate averaging requirements against nation-wide carriers when they compete with regional carriers. These arguments have now been rejected twice,¹² and neither AT&T nor WorldCom has offered any new facts or arguments to warrant any change in the Commission's position.¹³

¹⁰(...continued)

reject AT&T's suggestion that we delay implementing Section 254(g) until access charges are lower and more cost based.").

¹¹ AT&T Comments at 79-80; WorldCom Comments at 36. *See also* MCI Comments at 57 n.81.

¹² *AT&T Corp.'s Petition for Waiver and Request for Expedited Consideration, Order*, CC Docket No. 96-61, DA 97-129 (Com. Car. Bur., Jan. 17, 1997); *Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, Report and Order, supra*, 11 FCC Rcd at 9580-81 ¶ 34, 9583 ¶ 39.

¹³ In its argument that the Commission must forbear from enforcing geographic rate averaging and allow interexchange carriers to pass on to end users geographically deaveraged CCL charges, WorldCom ignores the rejection of AT&T's waiver request in which the public interest benefits of
(continued...)

Whatever action the Commission takes in this docket should not call into question its commitment to -- or in any way be contrary to the Congressional mandate for -- geographic rate averaging and rate integration for interexchange services.¹⁴ As the State has previously discussed, these fundamental national telecommunications policies are critical to assuring that all Americans, including those living in high-cost and remote areas, are charged rates for interexchange services that are nondiscriminatory and reflect the increased competition in telecommunications markets in other areas of the United States.¹⁵

¹³(...continued)

the national policy of geographic rate averaging were found to outweigh the generalized assertions of competitive harm. *AT&T Corp.'s Petition for Waiver and Request for Expedited Consideration, Order, supra*, at 6 ¶ 10.

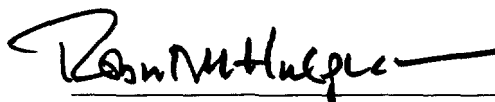
WorldCom's suggestion that its proposal to pass through geographically deaveraged CCL charges is consistent with the Telecommunications Act of 1996 ignores the limitation in the Conference Report that forbearance from enforcement of geographic rate averaging would be permissible only in limited circumstances. H. R. Rep. 104-458, 104th Cong. 2d sess. at 132 ("the Commission, where appropriate, could continue to authorize limited exceptions to the geographic rate averaging policy using the authority provided by the new section 10 of the Communications Act").

¹⁴ WorldCom implicitly admits that its position that the Commission must forbear from enforcing geographic rate averaging requirements and permit interexchange carriers to pass on to end-users geographically deaveraged CCL charges is inconsistent with the Commission's Report and Order promulgating the statutorily required geographic rate averaging and rate integration rules. *See* WorldCom Comments at 34-35 n.42.

¹⁵ *See, e.g.*, Comments of the State of Alaska, CC Docket No. 96-61, April 19, 1996; Reply Comments of the State of Alaska, CC Docket No. 96-61, May 3, 1996.

Respectfully submitted,

THE STATE OF ALASKA

A handwritten signature in black ink, appearing to read "Robert M. Halperin", written over a horizontal line.

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February 14, 1997

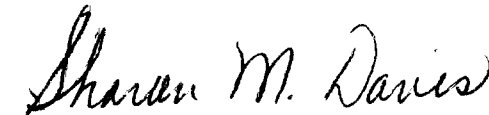
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply Comments of the State of Alaska" were served on this 14th day of February, 1997, by first-class mail or hand delivery to the following:

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